

MARTIN B. MOORE, SR.

IBLA 95-691

Decided December 18, 1997

Appeal from a decision of the Alaska State Office, Bureau of Land Management holding Native allotment application legislatively approved and subject to mineral reservation. F-16617.

Affirmed.

1. Alaska: Native Allotments

A BLM determination to issue a Native allotment application subject to an oil and gas reservation pursuant to 43 U.S.C. § 270-11, 270-12 (1976) will be affirmed where the allotment applicant objects to the reservation but fails to present evidence to dispute BLM's classification of the lands as valuable for oil and gas.

APPEARANCES: Martin B. Moore, Sr., pro se.

OPINION BY ADMINISTRATIVE JUDGE TERRY

Martin B. Moore, Sr. (Moore or Appellant), has appealed a July 18, 1995, Decision of the Alaska State Office, Bureau of Land Management (BLM), finding that Native allotment application F-16617 was properly amended to encompass the land the applicant intended to claim, was legislatively approved, and was subject to a mineral reservation. Moore's appeal is limited to the mineral reservation.

On March 24, 1972, the Bureau of Indian Affairs filed Native allotment application F-16617 on behalf of Moore. The application was filed pursuant to the Act of May 17, 1906, as amended, 43 U.S.C. §§ 270-1 through 270-3 (1970). 1/

1/ The Act of May 17, 1906, as amended by the Act of Aug. 2, 1956, 48 U.S.C. § 357 (1958), was repealed by § 18(a) of the Alaska Native Claims Settlement Act, as amended, 43 U.S.C. § 1617(a) (1994), effective Dec. 18, 1971, subject to applications pending on that date. The Act of May 17, 1906, authorized the Secretary of the Interior to allot "in his discretion and under such rules as he may prescribe" up to 160 acres of vacant, unappropriated, and unreserved nonmineral land upon satisfactory proof of

The BLM's Decision states that the application was before the Department on June 13, 1971, and indicates use and occupancy since June 1956. The lands are described as secs. 32 and 33, T. 28 S., R. 31 W., Kateel River Meridian, now surveyed and designated as Lot 6, U.S. Survey No. 10764. The BLM reviewed the application pursuant to section 905 of the Alaska National Interest Lands Conservation Act, 43 U.S.C. § 1634 (1994), and found it to have been legislatively approved, effective June 1, 1981. The Decision further states that the lands in the application were classified as valuable for oil and gas ^{2/} and advised the allotment applicant of his right to dispute that classification by submitting geological information from a mineral expert. Failing the filing of such information by the applicant, BLM would issue the allotment subject to a reservation for oil and gas.

On appeal, Moore alleges that the Federal Government and major oil companies have demonstrated that there is no oil and gas in the Norton Sound area, approximately 10 miles from his allotment. Moore asserts that there are 59 leases in the Norton Sound area and none of those are active.

Moore asserts that he should be the owner of any oil and gas under his allotment.

[1] The BLM's stated authority for impressing Native allotment F-16617 with a reservation of oil and gas is the Act of March 22, 1922, 43 U.S.C. §§ 270-11, 270-12 (1976), repealed by Pub. L. No. 94-579, Title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789, effective on and after the 10th anniversary of the date of approval of the Act, Oct. 21, 1976. See Walter R. Anagick, 1 IBLA 98 (1970); 43 C.F.R. §§ 2093.3-3(d), 2093.4-1. The regulation at 43 C.F.R. § 2093.3-3(d) provides for the filing, by an applicant who wishes to request a classification of the land as nonmineral, of "preferably the showing of experts" that the land is not valuable for the minerals for which it was classified.

A party appealing a BLM decision has the obligation to show that the determination is erroneous. Unless a statement of reasons shows adequate reasons for appeal and the allegations are supported with evidence showing error, the appeal will not be afforded favorable consideration. Fred Wilkinson, 135 IBLA 24, 26 (1996); Howard Hunt, 80 IBLA 396, 397 (1984); United States v. Connor, 72 IBLA 254 (1983); Rocky Mountain Natural Gas Co., 55 IBLA 3 (1981). In this case, Moore has alleged that the land is not valuable for oil and gas, but has submitted no supporting evidence to dispute BLM's classification of the land to the contrary. Therefore, there is no reason to disturb BLM's decision to issue the allotment subject to a reservation for oil and gas.

fn. 1 (continued)

"substantially continuous use and occupancy of the land for a period of five years." 43 U.S.C. §§ 270-1 and 270-2 (1970).

^{2/} The file contains a Nov. 16, 1972, memorandum from the Geological Survey to the Director, BLM, stating: "Survey information indicates that [the land embraced by the allotment application] is valuable for oil and gas."

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Decision appealed from is affirmed.

James P. Terry
Administrative Judge

I concur:

Franklin D. Arness
Administrative Judge

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